Supreme Court, U.S.
FILED

96 107 JUL 15 1996

OFFICE OF THE CLERK

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES
October Term 1995

GLENN A. FROEMAN, Petitioner

STATE OF MARYLAND, Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE MARYLAND COURT OF APPEALS

PETITION FOR WRIT OF CERTIORARI APPENDIX

GLENN A. FROEMAN
Pro se counsel of record.
P.O. Box 339, Pasadena
Maryland 21123. Beeper #
(410) 351-0330.

APPENDIX A

OPINION BELOW

GLENN A. FROEMAN	*	In the
v.		Court of Appeals
STATE OF MARYLAND	*	of Maryland
		Petition No. 596
	*	
		(no..95-CR-1268,
		Circuit Court for
		Baltimore County)

ORDER

Upon consideration of the petition for Writ of Certiorari to the Circuit Court for Baltimore County,motion to stay or modify order of probation, answers, and motions for injunction filed thereto in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the petition and motions be and they are hereby, denied as there has been no showing that review by Certiorari is desirable and in the public interest.

/s/ Robert Murphy
Chief Judge

DATE: May 8, 1996

STATE OF MARYLAND	*	IN THE CIRCUIT
v.		COURT FOR
GLENN A. FROEMAN	*	BALTIMORE COUNTY
		Case no. 96CR2168
	*	

MOTIONS RULING

1. Defendant's motion for stay of execution of sentence filed January 11, 1996 in the above captioned case. Motion is denied

2. Defendants motion to stay execution of order of restitution filed January 16, 1996. Motion is GRANTED pending the outcome of any appeals.

3. Defendant's motion to stay probation fees and restitution filed January 17, 1996. Motion to stay restitution is GRANTED. Motion to stay probation, probation fees and all other requests is DENIED

SIGNED
John O. Hennegan, Judge

DATE: January 22, 1996

STATE OF MARYLAND	*	IN THE CIRCUIT
v.		COURT FOR
GLENN A. FROEMAN	*	BALTIMORE COUNTY
		Case no. 95-CR-2168
	*	

ORDER

Upon consideration of Froeman's motion to correct an illegal sentence, it is hereby DENIED. 2-13-96

SIGNED
Judge John Hennegan

APPENDIX B
OTHER OPINIONS

GLENN A. FROEMAN	:	IN THE UNITED
v.	:	STATES DISTRICT
J. JOSEPH CURRAN,	:	FOR THE DISTRICT OF
& PARRIS GLENDENING	:	MARYLAND
	:	Civil no. L-95-1875

MEMORANDUM

Before the court is defendant's motion to dismiss. Plaintiff, Mr. Froeman, has filed this action against the Governor and Attorney General of Maryland, making several allegations. Mr. Froeman alleges that he was convicted of battery in the District Court of Maryland for Baltimore County. An order for probation was entered against Mr. Froeman which requires him to pay restitution to the victim and to obtain mental health counseling. He further alleges that the criminal conviction is currently on appeal to the Circuit Court for Baltimore County. (Compl. at p. 2.)

Although the complaint is unclear, it appears that Mr. Froeman contends that the enforcement of an order by a Maryland State district court pending an appeal is unConstitutional. (Compl. ¶3.). He seeks injunctive relief to stay the order of restitution. (Compl. ¶¶ 7,8).

This Court has no jurisdiction over this action, and therefore the Court shall dismiss the complaint. Federal district and appellate courts have no jurisdiction to review challenges to state court decisions in judicial proceedings, even if those decisions are alleged to be unConstitutional. District of Columbia Court

of Appeals v. Feldman, 460 U.S. 462 (1983); Atlantic Coast Line R.R. Co. v. Brotherhood of Locomotive Engineer, 398 U.S. 281 (1970) ("[L]ower federal courts possess no power whatever to sit in direct review of state court decisions."); and Rooker v. Fidelity Trust C., 263 U.S. 413 (1923).

Accordingly, by separate order, the Court shall GRANT defendant's motion to dismiss and DISMISS AS MOOT all of plaintiff's motions pending before this Court.

SIGNED
Benson Everett Legg
U.S. District Judge

DATED: March 28,1996

ORDER

For the reasons stated in a memorandum of even date, the Court hereby GRANTS defendant's motion to dismiss;DISMISS AS MOOT all pending motions of the plaintiff; and DIRECTS the clerk to close the case. IT IS SO ORDERED this 28th day of March,1996.

SIGNED
Benson Everett Legg
U.S. District Judge

GLENN A. FROEMAN	:	IN THE UNITED
v.	:	STATES DISTRICT
WARDEN-BCDC, ET AL.	:	COURT FOR THE
	:	DISTRICT OF Md.
	:	Civil No. L-96-559

ORDER OF REFERENCE TO
UNITED STATES MAGISTRATE JUDGE

In accordance with 28 U.S.C. §636 and local Rules 301 and 302 of the United States District Court for thr District of Maryland, this case is hereby referred to the Honorable Daniel E. Klein, Jr., U.S. Magistrate Judge for said District, for the following purpose(s):

__X__ Hearing (if necessary), proposed findings of fact, and recommendations for the disposition of applications for post-trial relief under 28 U.S.C. §§2254 and 2255 made by individuals convicted of criminal offenses.

SIGNED
Benson Everett Legg
U.S. District Judge

June 12, 1996
Date

APPENDIX C
PERTINENT TEXTS

The Constitution of Maryland, Article III:

§ 38. IMPRISON FOR DEBT.

No person shall be imprisoned for debt, but a valid decree of a court of competent jurisdiction or agreement approved by decree of said court for the support of a wife or dependent children, or for the support of an illegitimate child or children, or for alimony, shall not constitute a debt within the meaning of this section.

§60. SUSPENSION OF SENTENCES; INDETERMINATE SENTENCES; PAROLE OF CONVICTS.

The General Assembly of Mar yland shall have the power to provide by suitable general enactment (a) for the suspension of sentence by the Court in criminal cases; (b) for any form of the indeterminate sentence in criminal cases, and(c) for the release upon parole in whatever manner the General Assembly may prescribe, of convicts imprisoned under sentence for crimes.

The Maryland Declaration of Rights :

Article 2. The Constitution of the United States, and the laws made, or which shall be made, in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, are, and shall be the Supreme Law of the State; and the Judges of this State, and all the People of this State, are, and shall be bound thereby; anything in the Constitution or law of this State to the contrary notwithstanding..

Article 5. That the Inhabitants of Maryland are entitled to the Common Law of England, and the trial by jury, according to the course of that Law, and to the benefit of such of the English statutes as existed on the fourth day of July, seventeen hundred and seventy-six; and which, by experience, have been found applicable to their local and other circumstances, and have been introduced, used and practiced by the Courts of law or Equity; and also of all Acts of Assembly in force on the first day of June, eighteen hundred and sixty-seven, except such as may have since expired, or may be inconsistent with the provisions of this Constitution; subject, nevertheless, to the revision of, and amendment or repeal by, the

Legislature of this State. And the Inhabitants of Maryland are also entitled to all property derived to them from, or under the Charter granted by his Majesty Charles the First to Caecilius Calvert, Baron of Baltimore.

Article 23. In the trial of all criminal cases, the Jury shall be the Judges of Law, as well as of fact, except that the Court may pass upon the sufficiency of the evidence to sustain a conviction.

The right of trial by Jury of all issues of fact in civil proceedings in the several Courts of Law in this State, where the amount in controversy exceeds the sum of five thousnad dollars shall be inviolably preserved.

Maryland statutory law is:

Maryland Code, Article27, §639. Suspension of sentence generally; orders and terms; minors; intoxicated drivers; weekend confinement in Prince George's County; conviction of controlled dangerous substance offense.

(a) Suspension of sentence generally; orders and terms; minors - (1) The courts may

suspend sentence generally or for a definite time, and may make such orders and impose such terms as to costs, recognizance for appearance, or matters relating to the residence or conduct of the convicts as may be deemed proper; and if the convict is a person under 18 years of age, the courts may also make such orders as to his detention in any care or custody as may be deemed proper...

Maryland Code, Article 27, §641A. Suspension of sentence or imposition of probation following judgement.

(a) In general - (1) Upon entering a judgement of conviction, the Court having jurisdiction may suspend the imposition of sentence and place the defendant on probation upon such terms and condictions as the court deems proper.

(2) In Charles County, St. Mary's County, Cecil County, Harford County, and Calvert County, the court may impose as a condition of probation a sentence of confinement.

(3) The court may impose a sentence for a specified period and provide that a lesser period be served in confinement, suspend the remainder of the sentence and grant probation for a period longer than the

sentence but not in excess of 5 years.

(4) However, if the defendant concents in writing, the court may grant probation in excess of 5 years, but only for purposes of making restitution.

(b) Probation when offense punishable by fine and imprisonment; limitation, revocation or modification - Probation may be granted whether the offense is punishable by fine or imprisonment or both. If the offense is punishable by fine and imprisonment, the court may impose a fine and place the defendant on probation as to the imprisonment. Probation may be limited to one or more counts or indictments, but, in the absence of express limitation, shall extend to the entire sentence and judgement. The court may revoke or modify any condition of probation or may reduce the period of probation.

(c) Commencement of probation on date of release as condition - If a sentence of imprisonment is imposed, a portion of it is suspended, and the defendant is placed on probation, the court may impose as a condition of probation that the probation commence on the date the defendant is actually released from imprisonment.

(d) Participation in drug treatment or education programs - When the probation granted is for violation of any provision of ±± 276 through 303 ofthis article, if the court places the person on probation, it shall require, as a condition of the suspension of sentence, that the person participate in a drug treatment or education program approved by the Department of Health and Mental Hygiene, unless the court finds and affirmatively states on the record that the interests of the person and the people of the State do not require the imposition of this condition.

Maryland Code Article 27- section 641B. Fees paid by person supervised by the Division of Parole and probation.

(a) Definition - In this section "supervise" means a person placed under the supervision of the Division of Parole and Probation by the court.

(b) Monthly fee assessed. - Unless the defendant is exempt under subsection (d) of this section, the court shall assess a monthly fee of $25 as a condition of supervision whenever a person is placed under the supervision of the Division of Parole and Probation.

(c) Payment - (1) The fee assessed under this section shall be paid to the Division of Pàrole and Probation.

(2) The Division of Parole and Probation shall pay all moneys collected under this section into the General Fund of the State.

(d) Exemptions. - The court may exempt a supervisee in whole or in part from the fee imposed under this section if:

(1) The supervisee haas diligently attempted but has been unable to obtain employment which provides sufficient income for the supervisee to pay the fee;

(2)(i) The supervisee is a student in a school,college, university, or enrolled in a course of vocational or technical training designed to prepare the student for gainful employment; and(ii) Certification of student status is supplied to the court by the institution in which the supervisee is enrolled;(3) The supervisee has a handicap limiting employment,as determined by a physical or psychological examination accepted or ordered bt the court;

(4) The supervisee is responsible for the support of dependants and the payment of the fee constitutes an undue hardship on the supervisee; or

(5) Other extenuating circumstances exist .

(e) Fee in addition to court cost and fines. - The fee imposed by this section is in addition to court costs and fines.

(f) Failure to pay fee; probation revoked. - (1) The court may revoke probation for failure to make the required payment of the fee assessed under this section.

(2) If the supervisee does not comply with the fee requirement, the Division of Parole and Probation shall notify the court.

(3) The court shall conduct a hearing to determine if there are sufficient grounds to find the supervisee in violation.

(4) At the hearing under this subsection, consideraqtion may be given to;

(i) Ant material change in the supervisee's financial status;

(ii) Good faith efforts of the supervisee to pay the fee;and

(iii) Alternative means to assure payment of the fee before expiration of the period of supervision.

(g) Drug or alcohol abuse testing.- (1) In addition to fees imposed under this section, the Division may require a supervisee to pay for drug or alcohol abuse testing if testing is ordered by the court

(2) Failure to make a payment required for drug or alcohol abuse testing may be considered grounds for revocation by the court.

(3) The Division may exempt a supervisee in whole or in part from a payment for testing if the Division determines that any of the criteria provided in subsection (d) of this section are applicable.

(h) Guidelines; investigations. - The Division of Parole AND Probation shall:

(1) Adopt guidelines for collecting the supervision fee;

(2) Adopt guidelines for collecting the cost of drug and alcohol testing; and

(3) Investigate requests for an exemption from payment, if the court requests an investigation.

(i) Records;reports. - The Division of Parole and Probation shall;

(1) Keep records of all payments by each person; and

(2) Report delinquencies to the court.

Maryland Code Article 27, §637. Execution against convict's property for restitution to party injured.

In all cases where restitution or reparation is adjudged to be made to the party injured and immediate restitution or reparation is not fully made, the court before whom the offender is convicted shall either issue execution against the property

of the convicted person in the name of the person injured for the value of the property taken, or so much thereof as is not restored, the value to be estimated by the court, or order restitution in an amount not to exceed 20 percent of any earnings less other deductions required by law to be paid out of any funds earned by the defendant under a "work release" plan.

The provisions of this section may not deprive the party injured from having and maintaining a civil action against the offender, either before or after conviction, or against any other person, for the recovery of the money received or property taken, or the value thereof.

Maryland Code Article 27, §640.Restitution for crimes.

(a) Definitions. - In this subtitle, the following words have the meanings indicated, unless the context of their use indicates otherwise.

(1) "Abandoned vehicle" has the same meaning as stated in §25-201 of the transportation Article.

(2) "Child" means a person under the age of 18 years.

(3) "Court" means the Court of Appeals,

(4) "Crime" means an act committed by any person in the State of Maryland which wouls constitute a crime as defined in Article 27 of the Annotated Code of Maryland or at common law, or a violation under §25-202 of the transportation Article. However, an act involving the operation of a motor vehicle which results in injury does not constitute a crime for the purpose of this article unless the injuries were intentionally inflicted through the use of a vehicle.

(5) "Defendant" means any person who who has been found guilty of a crime or ant person whose plea of nolo contendere to a crime has been accepted by the court.

(6) "Division" means Division of Parole and Probation.

(7) "Judge" means a judge of a court.

(8) "Property" means both real and personal property.

(9) "Victim":

(i) Means a person who suffers personal injury, death, or property loss as a direct result of a crime; and

(ii) Includes, in the event of the death of a victim, the victims estate.

(b) Restitution upon conviction, acceptance of plea of nolo contendere, etc.; priority of payment; reasons for not ordering

restitution. - (1) On conviction of a crime, acceptance of a plea of nolo contendere, or imposition of probation before judgement under §292 or § 641 of this article, the court may order the defendant to make restitution in addition to any other penalty for the commission of a crime, if:

(i) Property of the victim was stolen, converted, unlawfully obtained, or its value substantially decreased as a direct result of the crime;

(ii) The victim suffered actual medical expenses, direct out-of-pocket losses, or loss of earnings as a direct result of the crime;

(iii) The victim incurred medical expenses, that were paid by the Department of Health and Mental Hygiene or any other governmental entity;

(iv) A governmental entity incurred expenses in the removal,towing, transporting, preserving, storage, sale, or destruction of an abandoned vehicle; or

(v) The Criminal Injuries Compensation Board paid benefits to a victim of the crime.

(2) On conviction of a crime, acceptance of a plea of nolo contendere, or imposition of probation before judgement under § 292 or § 641 of this article, the court may order the defendant to make restitution in addition to any other penalty for the commission of the

crime if:

(i) The victim or the State on behalf of the victim requests restitution; and

(ii) The court is presented with competent evidence of any of items (i) though (v) of paragraph (1) of this subsection.

(3) The court may order that restitution be made to:

(i) The victim;

(ii) The Department of Health and Mental Hygiene, the Criminal Injuries Compensation Board, or any other governmental entity; or

(iii) A third party payor, including an insurer, which has made payment to the victim to compensate the victim for property loss or pecuniary loss under this subsection.

(4) If the victim has been fully compensated for the victim's loss by a third party payor, the court may order restitution to the third party payor. Otherwise, payment of restitution to the victim has priority over payment of restitution to the third party payor.(5) Payment of restitution to the victim under this subsection has priority over payment of restitution to the Department of Health and Mental Hygiene or other governmental entity.

(6) If restitution is requested under this subsection and the court does not order

restitution, the court shall state, on the record, the court's reasons for not ordering restitution.(c) Sentence or condition of probation or parole - When an order of restitution has been entered pursuant to subsection (b) of this section, compliance with the order may be made as a sentence or condition of probation.

(d) Administration - (1) Restitution shall be made by the defendant to the Division of Parole and Probation under terms and conditions of the order for restitution.

(2) The Division shall keep records of any payments or return of property in satisfaction of the order.

(3) The Division shall forward any property or payments in accordance with the court's order and the provisions of this section to:

(i) The victim;

(ii) The Department of Health and Mental Hygiene or other governmental entity; or

(iii) The third party payor.

(4) The Division may assess additional fees not to exceed 2 percent of the amount of the order to pay for administrative costs of collecting payments or property. These fees shall be paid by the defendant.

(e) Failure to make restitution - (1) When a defendant fails to make restitution as ordered, the Division shall notify the

court.

(2) The court may hold a hearing to determine if the defendant is in contempt of court or has violated the terms of the probation or parole.

(3) If the court finds that the defendant intentionally became impoverished to avoid payment of the restitution, the court may find the defendant in violation of thec probation or parole.

(f) Civil action not precluded. - An order of restitution may not preclude the owner of the property or the victim who suffered personal physical or mental injury or out-of-pocket loss of earnings or support from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order.

(g) Orders requiring payment of money - Nature, effect, etc. - If an order of restitution requiring the payment of money is recorded and indexed in the civil judgement index under subsection (h) or subject(i) of this section:

(1) The order of restitution shall constitute a money judgement in favor of the individual, governmental entity, or third party payor to whom the defendant has been

ordered to pay restitution;

(2) The ordr of restitution may be enforced by the, governmental entity, or third party payor to whom the defendant has been ordered to pay restitution in the same manner as a money judgement in a civil action; and(3) Except as otherwise expressly provided by this section, an individual, governmental entity, or third party payor to whom a defendant has been ordered to pay restitution shall have all the rights and obigations of a money judgement creditor under the Maryland rules, including the obligation to file a statement that the judgement has been satisfied under Rule 2-626 or Rule 3-626 on receiving all amounts due under the judgement.

(h) Same - Circuit court - (1) An order of restitution that is issued by a circuit court under this section shall be recorded

and indexed in the civil judgement index by the clerk of the circuit court as a money judgement as prescribed by the Maryland rules.

(2) An order of restitution that is recorded and indexed in the civil judgement index as a money judgement under paragraph (1) of this subsection:

(i) In the County of entry of the judgement, shall constitute a lien from the date of entry in the amount of the judgement on the defendant's interest in land located in the County of the entry of the judgement; but

(ii) In a county other then the county of entry of the judgement,shall constitute a lien from the recording in the amount of the judgement on the defendant's interest in land located in that county.

(i) Same - District Court - (1) An order of restitution that is issued by the District Court under this section may not be recorded and indexed as amoney judgement in the District Court until the individual, governmental entity, or third party payor to whom the defendant has been ordered to pay restitution files a written statement with the clerk of the District Court that requests the order of restitution be recorded and indexed as a money judgement.

(2) If an order of restitution issued by the District Court is recorded and indexed as a money judgement as permitted under paragraph (1) of this subsection, the clerk of the District Court shall:

(i) Immediately foward a notice of lien of judgement to the circuit court of that county; and

(ii) On the receipt of the written statement from the individual, governmental entity, or third party payor to whom a defendant has been ordered to pay restitution, forward a notice of lien of judgement to the circuit court of any other county as prescribed by the Maryland Rules.

(3) When the clerk of the district court forwards a notice of lien under paragraph (2) of thissubsection to a circuit court, the clerk of the circuit court shall record and index the notice of lien as prescribed by the Maryland Rules.

(4) An order of restitution that is issued by the District court and is recirded and indexed as a mony judgement as permitted by paragraph (1) of this subsection shall constitute a lien in the amount of the judgement of the defendant's interest in land in a county from the date that a notice of lien is recorded and indexed in the circuit court of that county.

(5) If the District court issues an order of restitution under this section, the clerk of the district court shall foward a written notice to the individual, governmental entity, or third party payor to whom a defendant has been ordered to pay restitution that states;

(i) The order of restitution does not constitute a money judgement until it is recirded and indexed in the civil judgement records in the District Court;

(ii) The order of restitution shall be recorded and indexed as a money judgement in the District Court and a notice of lien shall be forwarded to the circuit court of that county by the clerk of the District Court on the receipt of a written statement from the individual, governmental entity, or third party payor that request the order of restitution be recorded and indexed as a money judgement,

(iii) A notice of lien shall be forwarded by the clerk of the District Court to any other Circuit court on the receipt of a written statement from the individual, governmental entity,or third party payor that requests the notice of lien be forwarded to a specific circuit court; and

(iv) There shall be no fee for recording and indexing the order of restitution as a money judgement in the District Court or for recording and indexing a notice of lien in the circuit court of that county.

(j) Same - Costs. - A court may not assess any cost on an individual, governmental entity, or third party payor to whom a

defendant has been ordered to pay restitution:

(1) For recording and indexing an order of restitution as a money judgement in the court in which the order of restitution was issued;or

(2) For recording and indexing a notice of of lien forwarded by the District Court to a circuit court.

(k) Termination of order or probation. - (1) Subject to the Maryland Rules, unless complete restitution is paid by the defendant, termination of an order of restitution or probation by a court does not affect a money judgement that has been recorded and indexed under this section.

(2) If a District court decides to terminate an order of restitution that has not been recorded and indexed as a money judgement under subsection (i) of this section or to terminate a probation before an order of restitution has been recorded and indexed as a money judgement under subsection (i) of this section, the court shall direct the clerk of the court to:

(i) Record and index the order of restitution as a money judgement and forward a notice of lien to the circuit court of that county prior to terminating the order

of restitution and probation; and

(ii) Forward a written notice to the individual, governmental entity, or third party payor to whom the defendant was ordered to pay restitution which states that the order of restitution has been recorded and indexed as a money judgement in the District Court and that a notice of lien has been forwarded to the circuit court of that county.

(1) Effect of motions to stay execution of sentence or challenge to conviction, sentence or order. - (1) Notwithstanding any other provision of this section and except as provided in paragraph (2) of this subsection, a victim or other person may not excute on a judgement recorded and indexed under this section if the defendant files a motion under the Maryland Rules to stay excution of sentence, or thethe order of restitution and challenges the conviction, sentence, or order of restitution by:

(i) Filing an appeal in a State Court or in Federal court;

(ii) Applying for leave to appeal following a plea of guilty in a circuit court;

(iii) Filing a motion for exercise of revisory power by the sentcening court under the Maryland Rules;

(iv) Filing an application for review of criminal sentence under Article 27 §§ 645JA through 645JG of the code (subheading "Review of Criminal Sentences"); or

(v) Filing a notice for in banc review under the Maryland Rules.

(2) If a defendant files an action described in paragraph (1) of this subsection, an individual, government entity, or third party payor may not excute on a judgement recorded and indexed under this section until a court issues a final judgement upholding the conviction, sentence, or order of restitution.

(3) An individual, governmental entity, or third party payor may not execute on a judgement recorded and indexed under this section until the time period has expired in which a defendant may file any of the actions listed under items (1) (i) though (v) of this subsection.

(m) Defendant is a child. - (1) Notwithstanding any other provision of law, if the defendant is a child who has been charged as an adult, the court may order the child, the child's parent, or both to pay restitution to a victim.

(2) As an absolute limit against any one child, the child's parents, or both, an order of restitution issued under this

section may not exceed $5,000 for all acts arising out of a single incident.

(3) A court may not issue an order of restitution against a parent under this section unless the parent has been afforded a reasonable opportunity to be heard and to present appropriate evidence on the parent's behalf. A hearing under this section may be held as part of the criminal proceedings against vthe child.

Maryland Rules. Rule 7-101. Applicability.

The rules in this Chapter govern appeals to a circuit court from a judgement of the District Court.. Rule 7-102. Modes of Appeal.

(a) On the record. An appeal shall bec heard on the record made in the District Court in the following cases:

(1) a civil action in which the amount in controversy exceeds $2,500 exclusive of interest, costs, and attorney's fee if attorney's fees are recoverable by law or contract;

(2) any matter arising under §4-401(7)(iii) of the Courts Article;

(3) any civil or criminal action in which the parties so agree; and

(4) an appeal from an order or judgement of

direct criminal contempt if the sentence imposed by the District Court was less than 90 day's imprisonment.

(b) De Novo. An appeal shall be tried de novo in all other civil and criminal actions, including a criminal action in which sentence has been imposed or suspended following a plea of guilty or nolo contendere, an appeal in a municiple infraction or code violation case, and an appeal under code, Family Law Article § 4-507 from the granting or denying of a petition seeking relief from abuse.

Maryland Rule 5-103. Rulings on evidence.

(a) Effect of erroneous ruling. - Error may not be predicated upon a ruling that admits or excludes evidence unless the party is prejudiced by the ruling, and

(1) Objection - In case the ruling is one admitting evidence, a timely objection or motion to strike appears of record, stating the specific ground of objection, if the specific ground was requested by the court or required by rule;or

(2) Offer of proof. - In case the ruling is one excluding evidence, the substance of the evidence was made know to the court by offer on the record or was apparent from the

context within which the evidence was offered. The court may direct the making of an offer in question and answer dorm.

(b) Explanation of ruling. - The court may add to the ruling any statement that shows the character of the evidence, the form in which it was offered, and the objection made.

(c) Hearing of jury. - Proceedings shall be conducted, to the extent practable, so as to prevent inadmissable evidence from being suggested to a jury by any means, such as making statements or offers of proof or asking questions within the hearing of the jury .

United States Constitutional law.

Amendment 14 - Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life,li9berty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. ...

Constitutional amendment8. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Constitutional Amendment 6. In all criminal prosecutions, the accused shall enjoy the right to a speedy public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

Constitutional amendment 5. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life and limb; norr shall be compelled in any

criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

U.S. Statutory law. U.S.C.28 §2007. Imprisonment for debt.

(a) A person shall not be imprisoned for debt on a writ of execution or other process issued from a court of the United States in any State wherein imprisonment for debt hAS BEEN ABOLISHED. All modifications, conditions, and restrictions upon such imprisonment provided by State law shall apply to any writ of execution or process issued from a court of the United States in accordance with the procedure applicable in such State.

(b) Any person arrested or imprisoned in any State on a writ of execution or other process issued from any court of the United States in a civil action shall have the same jail privileges and be governed by the same regulations as persons confined in like cases on process issued from the courts of such State. The same requirements governing discharge as are applicable in such State shall apply. Any Proceedings for discharge shall be conducted before a United States commissioner for the judicial district

U.S.C.28- §1654. Appearance personally or by counsel.

In all courts of the United States the parties may plead and conduct their own cases personally or by counsel, as the rules of such courts, respectively, are permitted to manage and contuct causes therein.

U.S.C.42- §1988. Proceedings in vindication of civil rights; attorney's fees.

The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of titles 13, 24, and 70 of the Revised Statutes for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the Constitution and statutes of the State wherein the court having jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution

and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty. In any action or proceeding to enforce a provision of sections 1981,1982,1983,1985 and 1986 of this title, titleIX of Public Law 92=318 [20 U.S.C. 1681 et seq.], or title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], the court, in it's discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee vas part of the cost.

U.S.C.42- §1987 Prosecution of violation of certain laws.

The United States, attorneys, marshals, and deputy marshals, the magistrates appointed by the district and territorial courts, with power to arrest, imprison, or bail offenders, and every other officer who is especially enpowered by the president, are authorized and required, at the expense of the United States, to institute prosecutions against all persons violating any of the provisions of section 1990 of this title or of sections 5506 to 5516 and

5518 to 5532 of the Revised Statutes, and to cause such persons to be arrested, and imprisoned or bailed, for trial before the court of the United States or the territorial court having cognizance of the offense.

U.S.C.42-§ 1986. Action for neglect to prevent.

Every person who, having knowledge that any of the wrongs conspired o be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or hisx legal representives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if the death of any party be caused by any such wrongful act and neglect, the legal representives of the deceased shall have such action therefor, and may recover not exceeding $5,000 damages therein, for the benefit of the widow of the

deceased, if vthere be one, and if therebe no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause has accrued.

U.S.C.42-§1985(3) Depriving persons of rights or privleges.

If two or more persons in any State or Territory conspire or go in disguise on thec highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or territory from giving or securing to all persons within such State or territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for president or vice presidedt, or as a menber of Congress of the United

States; or to injure any Citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property. or deprived of having and exercising any right orprivilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

U.S.C.42-§1983. Civil action for deprivation of rights.

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any Citizen of the United States or other person within its jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. For the purposes of this section, any Act of Congress applicable

exclusively to the District of Columbia shall be considered to be a ststute of the District of Columbia.

U.S.C. 42-§1982. Property rights of citizens

All persons of the United States shall have the samec right in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchace, lease,sell,hold, and convey real and personal property.

U.S.C.42-§1981. Equal rights under law.

(a)All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains,v penalties, taxes, licenses, and exactions of every kind and to

(b)other purposes of this section, the term "make and enforce contracts" includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

(c) The rights protected by this section are protected against impairment by non-governmental discrimination and by impairment under color of law.

English statute still in effect in Maryland and that should be applied in this case under the common law.

22&23 car. 2,cap.20, IMPRISONMENT FOR DEBT.

Made at Westminister, *Anno vicesimo secundo & tertio*Caroli secundi Regis, Stat.2,and A.D. 1670.

CAP. XX. (Stat. 2, CAP.7).

An Act for the Relief and Release of poor distressed Prisoners for Debt.

XIII. And whereas it is become the common Practice of Gaolers and keepers of Newgate, the Gatehouse at Westminister, and sundry other Gaols and Prisons, to lodge together in one room or chamber and bed, prisoners for debt and felons, whereby many Times hones Gentleman, Tradesmen, and others Prisons for debt, are dististurbed and hindred in the Night-Time from their natural Rest, by Reason of their fetters and irons, and otherwise much offended and troubled by their lewd and profane Language and Discourse, withmost horrid Cursing and

Swearing, (much accustom to such persons); (2) Be it enacted by the authority aforsaid, That it shall not be lawful hereafter for any Sheriff, Gaoler, or Keeper of any gaol or prison, to put, keep, or lodge Prisoners for debt, and Felons, together in one Room or Chamber; but that they shall be put, kept, and lodged separate and apart one from the other, in distinct Rooms; (3) upon Pain that he, she, or they which shall offend against this Act, or the true Intent and meaning thereof, or any part thereof, shall forfeit and lose his or her Office, Place of Imployment, and shall forfeit treble Damages to the party grieved, to be recovered by Virtue of this Act; any Law, Statute, Usage or Custom to the contrary in any wise notwithstanding.

The Maryland Fair Labor Statute that excludes tractor trailer drivers and creates male slavery, and that combines with these pleadings, and create an alleged conspiracy under the Rights statutes, as filed in U.S. District Court no. 95-1875, is, Labor and Employment Article-§3-415(c)(1).. Payment of overtime.

(a) General requirement. - Except as otherwise provided in this section, each employer shall pay an overtime wage of at

least 1.5 times the usual hourly wage, computed in accordance with §3-420 of this subtitle.

(b) Exceptions for employers. - This section does not apply to an employer that is:

(1) subject to 49 U.S.C. § 10501;

(2) an establishment that is a hotel or motel;

(3) an establishment that is a restaurant;

(4) considered a gasoline service station because the employer is engaged primarily in selling gasoline and lubricating oil, even if the employer sells other merchandise or performs minor repair work;

(5) a bona fide private country club;

(6) a not for profit entity and is engaged primarily in providing temporary at-home care services, such as companionship or delivery of prepared meals, to aged, disabled, handicapped, or sick individuals or individuals with a mental disorder;

(7) a not for profit concert promoter, legitimate theater, music festival, music pavilon, or theatrical show; or

(8) an amusement or recreational establishment, including a swimming pool, if the establishment:

(i) operates for no more than 7 months in a calender year, has average receipts in

in excess of one-third of the average recieptsfor the other 6 months.

(c) Exceptions for employees - This section does not apply to an employer with respect to:

(1) an employee for whom the United States Secretary of Transportation may set qualifications and maximun hours of service under 49U.S.C.- §3102;

(2) A mechanic, partsperson, o9r salesperson who primarily sells or services automobiles, farm equipment, trailers, or trucks, if the employer is engaged primarily in selling those vehicles to ultimate buyers and is not a manufacturer; or

(3) a driver if the employer is engaged in the business of operating taxi-cabs.

APPENDIX D

Pertinent quotations of the record needed for page 8, paragraph (F).

Transcript of the trial in the Circuit Court for Baltimore county:

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14 REDIRECT EXAMINATION

15 BYMR. STEIGERWALT:

16 Q. Ordinarily, I wouldn't do this. You mentioned that

you picked up bits of your teeth, Is that true?

A. Silly as it sounds, I looked for the teeth bits I have which are those I got out of the sink in the restroom.

Q. Do you have those with you?

A. Yes.

MR. STEIGERWALD: Your Honor, I would never do this. I am going to interduce these as State's Exhibit number whatever. These are the teeth along with a rag which contains some dried blood.

A. That is correct.

MR. STEIGERWALD: I will introduce this as identification as State's Exhibit nimber 2.

Q. I will show you an item which is marked as State's Exhibit number 2 and ask if you can identify that.

A. I can. Thesec are the few, but several bits of teeth remaining as I rinsed after the altercation and--

MR. FROEMAN: Can I see that?
MR. STEIGERWALT: Yes.
MR. FROEMAN: These are teeth bits?
MR. STEIGERWALD: Bits of Teeth.
Q. Is this the same condition that these items were in when you picked them up from the dock area?
A. I didn't find any at this dock area. This is what I had retained In my thoughts, I held on to-- I did neglect to say as we were separating, Forney separated, I repeated, I asked him what he was going to do about the teeth, tooth at that time. I thought there was only one. There are four. teeth involved. This one was not broken away. I had there in my mouth and I saved them when I checked those in the restroom.
Q. Okay. These were knocked out. These fell out in the restroom?
A. They were knocked out. I kept them down in my mouth. They were small bits. I kept them in my mouth.

Q. Paper towel that is in there, what stain is that on the paper towel?
A. Those are blood. It is just the - I barely maybe felt the pieces could be put together.
MR. STEIGERWALD: I introduce that as State's Exhibit nimber 2. I have no further questions.
THE COURT: Go ahead.
MR. FROEMAN: I have an objection to that evidence, It is immaterial. I mean, you know, how do we know that that bloodly rag or whatever it is was from the incident?
THE COURT: that goes to the weight. Overruled.
MR. FROEMAN: Say that again, sir.
THE COURT: You are arguing weight of the evidence and not admissibility of. Overruled. Next question.
MR. FROEMAN: Credibitity too?
THE COURT: That is an argument to the jury. Not to me.